

REMARKS

The claims have been amended to more clearly define the present invention. Also, claims 21, 24, 25, 27, and 30 which cover the program product aspect of the present invention have been cancelled and rewritten as new claims 31-35 to more clearly define the contribution of the computer program and to eliminate any reading on non-statutory subject matter. The new 31-35 claims describe the computer program being computer readable and stored on a computer usable medium.

The Rejection of claims 1, 7, 10, 14, 17, and New Independent claims 31, and 33 as Anticipated by Winburn (US2002/00699363) under 35USC102 is Respectfully Traversed.

Applicants wish to note at the outset of this argument that the rejected claims including the original program product claims were found to patentably distinct over the prior art in a Decision by the Board of Appeal of March 26, 2007. The new Examiner has withdrawn the earlier rejection which was reversed by Decision.

Applicants believe that the rejection of the present claims as anticipated by Winburn under 35 USC 102 is a rejection based more on semantics rather than substance. In order to satisfy Examiner's concerns, Applicants have amended the claims to avoid any possible interpretive reading on Winburn.

The present invention involves the recognition that in many systems, the data files may be so sensitive that the system may be programmed to have the requested files destroyed at the first unauthorized request for access to the file contents. Thus, the invention provides a very aggressive solution to the problem. It provides for storing for each of the plurality of data files, a backup file which is

inaccessible to any user requests. Then, as soon as an initial unauthorized intrusion is determined, the requested data files are destroyed, and respective stored backup files are substituted for the destroyed files.

Winburn does back his data files up with corresponding protected data files. However, Winburn merely compares his active data files to their corresponding backup files. Then, if the comparison shows an unauthorized deviation from the corresponding backup file, the authentication fails, the active file is deleted, and an active data file is constructed from the backup file. In order to avoid any possible reading on such a method of comparison to the backup file, all of the claims have been amended to recite:

"....determining, without accessing any of said backup files, whether said user requests are unauthorized intrusions into said requested data files;"

It is submitted that in order for a reference to anticipate a claimed invention under 35 USC 102, the reference must disclose every element of the claimed invention. In view of the foregoing, Winburn fails to satisfy the requirements of an anticipatory reference. Winburn must access and compare his backup files to the respective active files in order to authenticate whether the contents of the active files have compromised. Thus, Winburn fails to teach the element of determining, without accessing any of said backup files, whether said user requests are unauthorized intrusions into said requested data files.

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The Rejection of Dependent Claims 4, 13, 20, and New Claims 32 and 35 under 35 USC 103(a) as Unpatentable over Winburn in View of Moran (US6,647,400) and Koelle (US7,150,045) is Respectfully Traversed.

These dependent claims are submitted to be patentable over the basic Winburn publication for all of the reasons set forth hereinabove for the patentability of their respective independent claims. The general disclosure of the elements of user identification or detection of copying, for which Examiner has cited Moran and Koelle, still does not change the basic teaching of Winburn which requires comparison of the active file in question to the authenticated backup copy of the file. This is contrary to the present invention which requires that determining whether the user requests are unauthorized intrusions into said requested data files must be done without accessing any of said backup files.

In view of the foregoing, it is submitted that claims amended claims 1, 4, 5, 7, 10, 13, 14, 17, 20, and 31-35 are now in condition for allowance, and such allowance is respectfully requested.

Respectfully submitted,


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